

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 85-0489-RGS

UNITED STATES OF AMERICA

v.

METROPOLITAN DISTRICT COMMISSION, et al.

CIVIL ACTION NO. 83-1614-RGS

CONSERVATION LAW FOUNDATION  
OF NEW ENGLAND, INC.

v.

METROPOLITAN DISTRICT COMMISSION

SCHEDULE SEVEN  
COMPLIANCE ORDER NUMBER 235

March 27, 2015

STEARNS, D.J.

This is the two hundred and thirty-fifth Compliance Order that has issued over the course of this litigation. On March 13, 2015, the Massachusetts Water Resources Authority (MWRA) filed its Quarterly Compliance and Progress Report, supplemented on March 26, 2015, by an addendum explaining that a dispute between the City of Cambridge and a local property owner over an additional Right of Entry necessary to

complete the design of sewer separation work along Concord Lane in Cambridge had been amicably resolved. The MWRA has also provided the court with a copy of the 2014 Progress Report for the Combined Sewer Overflow (CSO) Control Plan. The United States and the Conservation Law Foundation each have declined to file a response.

### I. Schedule Seven

There were no scheduled activities for the first quarter of 2015 on the court's Schedule Seven.

#### A. Progress Reported

##### 1. Combined Sewer Overflow Program

###### a. CSO Annual Progress Report

The CSO Annual Progress Report for 2015 portrays an impressive history of success on the part of the MWRA in overseeing the completion of 32 of the 35 projects implementing the Long Term Control Plan, as well as making substantial progress with the remaining three – the Control Gate and Floatables Control at Outfall MWR003 and the Rindge Avenue Siphon Relief, the CAM004 Sewer Separation, and the Reserved Channel Sewer Separation, for which the MWRA, the City of Cambridge, and the Boston Water and Sewer Commission (BWSC), respectively, have taken the lead construction roles. By the end of 2015, the metropolitan Boston area is

expected to be in full compliance with the Federal Clean Water Act and Massachusetts Surface Water Quality Standards. As a result, the MWRA will be ready as planned in January of 2018 to begin the final three-year performance assessment.

The Report deserves to be studied as a whole, but Figures 8 and 9, which show in graphic form Region-wide CSO Reduction between 1988 and the present, and CSO Volume Reduction by Receiving Water over the same period, vividly illustrate an environmental success story. Figure 8 shows a region-wide reduction in CSO discharges from 3.3 billion gallons in 1988 (50% of which was untreated) to .45 gallons in 2014 (of which over 90% underwent treatment). Figure 9 shows the corresponding reduction by receiving water over the same period. As examples, the Charles River contribution has dropped from 1,742 million gallons in 1988 to 25.1 million gallons in 2014, while the Neponset River has dropped from 191 million gallons to zero. Looking at another measure of progress, under the MWRA's leadership, 38 of the 84 outfalls identified in the Long-term Control Plan have been closed (exceeding by 4 the number contemplated by the Plan), while the City of Chelsea has closed Outfall CHE002, which is outside the original Plan. Of the 34 outfalls recommended for closure, only Outfall CAM004 to Alewife Brook remains active.

**b. Control Gate and Floatables Control at Outfall  
MWRO03 and Rindge Avenue Siphon Relief**

As previously reported, the Notice to Proceed with this \$2.67 million project for the Gate, Siphon, and Floatables Control at the MWR003 Outfall issued on August 28, 2014. Construction is now 40 percent finished, and work is expected to be completed by October of 2015 in compliance with Schedule Seven. As explained in previous compliance reports, the project is part of the master plan to improve hydraulic performance, control flooding, and contain CSO discharges to Alewife Brook. A 48-inch diameter siphon has now been installed, while the abandoned 30-inch siphon has been secured with concrete filling. Structural work has begun at RE031 and RE032, which will permit the eventual installation of the automated gate, a flap gate and floatables control (RE031), and stop logs (RE032). In addition, an abandoned 30-inch sewer beneath the bed of Alewife Brook has been removed.

**c. CAM004 Sewer Separation**

The MWRA reports that the City of Cambridge continues to make progress on contracts 8A, 8B, 9, and Concord Lane, with the expectation of bringing the CAM004 sewer separation project to completion by December of 2015, in compliance with Schedule 7. Surface restoration work on the now completed \$17.8 million Contract 8A, which involved the separation of

combined sewers in the 68-acre area east of Fresh Pond Parkway, remains on target to be completed in June of 2015. Work on the \$31.2 million Contract 8B, which involves the separation of combined sewers in the 83-acre area between Concord Avenue and Brattle Street, is now 80 percent complete with most of the major storm drains and sewers now being either installed (Vassal Lane) or nearly so (Huron Avenue, Hutchinson Street, Manassas Avenue, and Granville Road). The MWRA reports that the contractor is in compliance with the schedule revisions necessitated by severe winter weather in late 2013 and early 2014. The City of Cambridge's change order #2, which issued in September of 2014, scheduled the completion of Contract 8B's Milestone 1 (the CSO-related work) by the original milestone date (September 20, 2015), while delaying the completion date of Milestone 2 (the surface restoration work) by 103 days from September of 2016 to December of 2016. NStar has completed the gas line relocations in the Contract 8B area and, while the schedule remains very tight, the MWRA and the City of Cambridge remain confident the CAM004 sewer separation project will be completed in compliance with Schedule Seven. The ultimate test will be the timely completion of Milestone 1 in September of 2015.

The MWRA reports that the \$24.4 million Contract 9, which provides for sewer separation in the 60-acre area extending from Fresh Pond Parkway to the intersection of Concord and Huron Avenues, is now 60 percent complete. The MWRA and the City expect that the sewer and drain work will be substantially completed by December of 2015, in compliance with Schedule Seven. The final surface restoration work in the Contract 9 area is scheduled to be completed as planned in August of 2016.

d. Concord Lane

As previously noted, the MWRA now reports the amicable resolution of the dispute with the owner of the Concord Lane property over the terms of a third right of entry, which will allow the City of Cambridge and the contractor the necessary access to begin the construction work on the Concord Lane portion of the CAM004 sewer separation project. The City will issue the notice to proceed within the next week and reports that it remains on schedule to complete all work on the project by the Schedule Seven milestone in December of 2015.

e. Reserved Channel Sewer Separation

The BWSC has completed five of the nine contracts that comprise the overall project – the \$4.1 million Contract 1, the \$5.9 million Contract 2, the \$1.2 million Contract 7, the \$11.8 million Contract 3A, and (most

recently) the \$12.8 million Contract 3B (which involved sewer separation in a 66-acre area of South Boston. The \$11.4 million Contract 4 (which involves sewer separation in a 182-acre area), is expected to be completed (or substantially so) by the end of this month.

The MWRA additionally reports that work on the \$6.8 million Contract 8 (follow-on pavement restoration] will resume shortly (after a winter weather interruption). The notice to proceed on the revised and rescaled Contract 6 was issued by the BWSC on December 8, 2014, and is now expected to be substantially completed by October of 2015. The \$4.8 million Contract 5, which involves pipe cleaning and sewer relining in the Reserved Channel area, will also resume shortly with a goal of substantial completion by November of 2015. The MWRA expects that the BWSC will complete all work on the Reserved Channel project by December of 2015, in compliance with Schedule Seven.

## II. Comments

The court is pleased that the milestones of Schedule 7 continue to be diligently met. This has been one of the most difficult winters in the collective memory of the citizens of Boston. It is a laudable measure of the planning and hard work of the MWRA and its staff, that despite the stress of recurring snowfalls and blizzard conditions, the Authority was able to

provide its essential services to homes and businesses in the greater Boston area without interruption. The court is also grateful to City leaders that an ill-advised proposal to dispose of the excess snow pack by dumping it into Boston Harbor was quickly and firmly rejected.

ORDER

The parties are ordered to report to the court as previously scheduled.

SO ORDERED.

/s/ Richard G. Stearns

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UNITED STATES DISTRICT JUDGE